



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRIAL DEFENSE SERVICE
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JALS-TD

2 May 2017

MEMORANDUM FOR U.S. Army Trial Defense Service Personnel

SUBJECT: TDS Policy Memorandum 2017-03: USATDS Capital Litigation Training Policy

1. **PURPOSE:** The following policy is established to provide regular capital defense training opportunities for USATDS counsel IAW AR 27-10, paragraphs 6-6 and 28-4.
2. **POLICY:** Each CONUS-based USATDS region will identify at least two defense counsel for capital defense litigation training annually. Given the unlikelihood a capital case will be tried overseas, OCONUS regions are not required but may nominate counsel for capital litigation training. No later than 15 August of each year, each CONUS-based Regional Defense Counsel will nominate one defense counsel to participate in capital litigation training during their assignment to USATDS. The selected defense counsel will attend two training events during year one, and two training events in year two. The selected counsel will be available for detailing to capital cases during their USATDS assignment. Additionally, the Chief, Defense Counsel Assistance Program (DCAP) may designate DCAP personnel to attend training as appropriate.
3. **QUALIFICATIONS:** Defense counsel selected to participate in capital litigation training should possess the following qualifications: two years' experience as a trial or defense counsel; experience as lead counsel (prosecution or defense) in GCM panel case tried to findings; skill in the management and conduct of complex negotiations and litigation; skill in legal research, analysis, and the drafting of litigation documents; skill in oral advocacy; skill in the use of expert witnesses and familiarity with common areas of forensic investigation; and skill in the elements of trial advocacy, such as panel selection, opening statement, direct examination and cross-examination of witnesses, closing argument, and preparation of a sentencing case. Additionally, selectees should have an anticipated minimum of 18 months remaining in their assignment to USATDS when selected.
4. **TRAINING:** The Chief, DCAP will develop a list of capital litigation training courses for trainees to attend. Course information will be made available as soon as possible in order to facilitate planning and calendar de-confliction. Supervisory counsel will make all reasonable efforts to avoid creating scheduling conflicts with capital defense training. Counsel will attend at least one course that focuses on voir dire in capital cases and at least one course that focuses on mitigation in capital cases.
5. **NO SUBSTANTIVE RIGHT:** Nothing in this policy should be construed as creating a right to a particular counsel, or as a standard for determining the effectiveness of counsel under the U.S. Constitution. Questions and requests for exceptions to this policy should be addressed to the undersigned through the Operations/Plans Officer, USATDS, at (703) 693-1019.


COREY L. BRADLEY
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Chief, U.S. Army Trial Defense Service